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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/369,804	08/06/1999	DAVID TIMPERLEY	2745/FBR	7273
23604	7590	10/07/2004	EXAMINER	
BARNES & NOBLE. COM			MENDIRATTA, VISHU K	
76 9TH AVENUE			ART UNIT	
NEW YORK, NY 10011			PAPER NUMBER	
			3711	

DATE MAILED: 10/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/369,804

Applicant(s)

TIMPERLEY, DAVID

Examiner

Vishu K Mendiratta

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3711

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-49 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-49 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-9,12,13,16,17,20-26,29,32,38-44,47 rejected under 35 U.S.C. 103(a) as being unpatentable over Falciglia (5,935,002).

Falciglia teaches a gaming console having an electronic display (134), game control for displaying images (144), a first image (numbers) and a transparent second image (shaded) superimposed on the first image (2A-D), both images being on the same screen.

Image is broadly and reasonably interpreted as a symbol and shaded areas are symbols, however applicant might argue that the shaded areas on the matrix are not images.

Casinos and gaming houses use various symbols such as fruits, playing cards and other Images and symbols to attract players.

In order to attract players, it would have been obvious to use any kind of image including images commonly used by casinos. One of ordinary skill in art at the time the invention was made would have suggested various images as desired to attract players.

Applicant may note that limitations indicating intended use of a game does not add any limitation to the apparatus in the claim, for example: "component used to indicate a feature game, special prize, a message etc."

3. Claims 10,11,14,15,18,19,27,28,30,31,33-37,45,46,48,49 rejected under 35 U.S.C. 103(a) as being unpatentable over Falciglia in view of Bennett (6,089,977).

Falciglia teaches all limitations except that it does not teach the second symbol moving around the screen.

Bennett teaches symbols moving on screen (abstract).

Casinos and gaming houses use animation techniques for various moving symbols such as card members or penguins as demonstrated by Bennett to attract players.

In order to attract players, it would have been obvious to use animation techniques commonly used by casinos. One of ordinary skill in art at the time the invention was made would have suggested various imaging techniques including animation to attract players.

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. JP404114676A teaches a transparent symbol superimposed on a basic symbol.

Response to Arguments

5. Applicant's arguments filed 7/30/04 have been fully considered but they are not persuasive. Shaded appearance can be interpreted as a transparent overlapping

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character. Shading as demonstrated in Falciglia does not conceal the symbols underneath.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishu K Mendiratta whose telephone number is (703) 306-5695. The examiner can normally be reached on Mon-Fri 8AM to 5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vidovich M Greg can be reached on (703) 308-1513. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Vishu K Mendiratta
Primary Examiner
Art Unit 3711



VKM
October 6, 2004